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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,084	07/09/2001	Steven Henry Buss	15487-US	7771

7590 07/15/2003
Deere & Company
One John Deere Place
Moline, IL 61265-8098

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,084

Applicant(s)

BUSS ET AL.

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13. 6) ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. Claim 7 is objected to because of the following informalities: in line 2, in front of "baffle" the word – first – is missing. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over John Deere Catalog PC 2725, "Mower Deck Baffles" (cited by applicant) and 9 Photographs of mower decks by John Deere (cited/provided by applicant).

In re independent claim 1, John Deere Catalog PC 2725 discloses a cutting implement useable with a vehicle having front and rear wheels, comprising:

First and second chamber & inherently blades & cutting planes (three chambers are shown on pages 55-6, 60-8, 60-10) having a front edge on an exterior thereof, to which a generally vertically & lower extending section than the front edge/portion, on every page the prior art drawings a deflector is shown, however, as an example on page 60-8, it is shown that deflector ref 6 or 7 has a mounting portion/member

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(mounting to the front wall of the mower deck) and a vertically downward lower extending deflector/baffle;

Also, in the Photographs provided (9 Photos by John Deere), especially on fig 3, 4, 5, and 8, it is clearly shown both attached extension & integral extension (fig 8) for a lower second portion of the front edge;

In re claim 2, the blades construed as extending to the lever of the cutting plane which corresponds to the lower lip of the front wall (see page 60-8), at which portion the section is mounted (as described above);

In re claim 3, the midpoint of the section is off center from the at least one of the blades (the blade midpoint is construed at where the shaft is positioned driving the blades rotationally about the cutting plane, see page 60-8 as an example);

In re claim 4, the section is a lip or deflector/baffle;

In re claim 5, a first baffle carried within the chamber of the other blade for shielding material projected by the other blade (either deflector/lip is located outside at least one of the chambers as shown on page 60-8 or ref 4 on page 60-10);

In re claim 6, the first baffle (ref 7) is arcuately shaped and spans portions of both the first and second chambers (the center and right hand side chambers on page 60-8 or ref 4 on page 60-10);

In re claim 7, the baffle includes a notched section thereon (see page 60-8, ref 7, has a cut out portion) that is alignable (using the adjusting means 8, bolt) with a front wheel;

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In re claim 8, the first baffle carries a second baffle thereon for shielding material (for example as shown at ref 4, the baffle has two portions, artcuately positioned as shown).

John Deere Catalog PC 2725, "Mower Deck Baffles" and 9 Photographs of mower decks by John Deere discloses the claimed invention except for showing the second portion to be integral (although photograph 8 does show it to be integral as well) with the front edge of the chamber. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form as one piece the extension/second portion, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

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Allowabl Subject Matter

4. Claim 9 is allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

As outlined above in the new rejection, the Examioner addresses Applicant's concern/argument regarding "the one-piece construction" of the vertically extending section.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703 308 5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 308 8623 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.



Árpád Fábián Kovács
Examiner
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ÁFK
July 11, 2003